



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/506,704  | 09/07/2004  | Siegfried Oberhofer  | CBZ-1341                  | 3517                   |
| 22827   | 7590        | 07/23/2007           |                           |                        |
| DORITY & MANNING, P.A.<br>POST OFFICE BOX 1449<br>GREENVILLE, SC 29602-1449 |             |                      | EXAMINER<br>MEHTA, BHISMA |                        |
|   |             |                      | ART UNIT<br>3767          | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/23/2007   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/506,704 | <b>Applicant(s)</b><br>OBERHOFER, SIEGFRIED |  |
|                              | <b>Examiner</b><br>Bhisma Mehta      | <b>Art Unit</b><br>3767                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 45-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 45-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the non-positive, detachable connection of the first insert to the second insert in the form of a clamp-connection and a bayonet connection must be shown or the feature(s) canceled from the claim(s). Also, the receiving unit and the dispensing unit being non-positively connected to one another via a bayonet connection must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Applicant's arguments in line 19 of page 13 to line 2 of page 14 regarding the bayonet-connection have been considered but are not deemed persuasive. A person of ordinary skill would not be sufficiently informed on the implementation of a bayonet-connection for non-positively connecting the receiving unit and the dispensing unit based on the illustrations of the screw-connection and the plug-connection in Figures 14a and 14b. As seen in these figures, the screw-connection and the plug-connection vary in the actual way that the non-positive connection is made. The actual non-positive connection of the receiving unit and the dispensing unit via a bayonet-connection would not be similar to the screw-connection and the plug-connection and, thus, the bayonet-connection be must be shown. Furthermore, U.S. Patent No. 5,303,848 cited by Applicant in line 2 of page 14 shows a bayonet-connection in a non-analogous art and, furthermore, does not aid in illustrating how a bayonet-connection would be made to non-positively connect the receiving unit to the dispensing unit.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings were received on June 28 2007. These drawings are acceptable.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to mention a flowthrough opening. It appears that Applicant is referring to the central opening (12) as being a flowthrough opening. It is thus suggested that the specification be amended to state language such

Art Unit: 3767

as "central opening or flowthrough opening (12)" to provide proper antecedent basis in the specification for the flowthrough opening. Also, the specification fails to disclose a body defining a flat surface capable of resting stably on a horizontal surface.

### ***Claim Objections***

4. Claims 51 and 53 are objected to because of the following informalities: Claim 51 recites the limitation "the receiving opening" in lines 2-3. Claim 53 recites the limitation "the walls" in line 1. There is insufficient antecedent basis for these limitations in these claims.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 45-49, 52-55, 58-60, and 62-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloan et al (U.S. Patent No. 6,039,213). Sloan et al disclose a device for administering or for ingesting fluid or powdery substances to a person having a body defining a flat surface (17) capable of resting stably on a horizontal surface, a receiving unit (18 as shown in Figure 4) which is carried by the body, and a dispensing unit (31') connected to the receiving unit. The device has an outer form not directly

Art Unit: 3767

functionally related to the administration where the outer form corresponds to that of an animal, a comic figure, or a fantasy creature. The dispensing unit has a dispensing opening (45') and a hollow line (43') that connect the receiving unit and the dispensing opening. The hollow line runs upwardly at least in a section toward the dispensing opening when the flat surface of the device is placed on a horizontal surface (Figure 5(B)). As to claim 45, see Figure 5(A). The device also has a flow regulating means (33') that opens by pressure and is formed by a valve. A transport device (47) is configured to transport the substance from the receiving unit to the dispensing opening. Sloan et al disclose elastic walls of the receiving unit (lines 16-36 of column 5). As to claim 52, the transport device is considered to be configured so as to be able to be coupled to a container or insert introduced into the receiving unit such that the substance can be administered upon actuation of the transport device via a flowthrough opening (shown at 41' in the Figure 5(B)). As to claims 54 and 55, the device has a receiving opening (24), a first closure unit (29'), and a second closure unit (12 as shown in Figure 5(A) or (41' as shown in Figure 5(B)). As to claims 63 and 64, see Figure 4, where the device has a dispensing unit (35). As to claim 65, the receiving unit and the dispensing unit are non-positively connected to one another via screw-connection as shown in Figure 5(B) or via a bayonet connection (lines 17-42 of column 11). As to claim 66, the receiving unit (15) is considered to be configured and capable of including a closed container. As to claim 67, the device includes a receiving unit (18), a dispensing unit (35) with a dispensing opening (16), a receiving opening (24), a first closure unit (26), and a second closure unit (12).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloan et al in view of Van Der Merwe (U.S. Patent No. 5,843,030).

Sloan et al disclose the device substantially as claimed. Sloan et al disclose the device having a receiving opening (24), a first closure unit (29'), a second closure unit (12 as shown in Figure 5(A) or (41' as shown in Figure 5(B))), and a transport device (47). However, Sloan et al are silent on the transport device comprising a pump mechanism including a stamp or a piston and the specifics of the transport device being at least integrated partially into the first closure unit. Van Der Merwe discloses a device for administering or for ingesting fluid or powdery substance to a person. The device includes a transport device comprising a pump mechanism in the form of a stamp or piston (60) which is integrated at least partially into a closure unit (61) where the closure unit is configured to selectively open and close a receiving opening (15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the transport device of Sloan et al with the transport device comprising a pump mechanism in the form of a stamp or piston as taught by Van Der Merwe as both Sloan et al and Van Der Merwe disclose devices for administering fluid to a person and Van Der Merwe teaches that it is well known provide a pump mechanism with a stamp

Art Unit: 3767

or piston as the transport device to transport the substance from the receiving unit to the dispensing opening. It would also have been obvious to one having ordinary skill in the art at the time the invention was made to provide the transport device of Sloan et al integrated into the first closure unit as taught by Van Der Merwe as Van Der Merwe discloses that it is well known to integrate the transport device at least partially into the first closure unit for ease of administering the substance to a person.

9. Claims 56, 57, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloan et al in view of Pham (U.S. Patent Application Publication No. 2002/0082564).

Sloan et al disclose the device substantially as claimed. However, Sloan et al are silent on the device including a first insert or container disposed in the receiving unit, a second insert disposed in the dispensing unit, and a non-positive, detachable connection. Pham discloses a device for administering fluid to an infant which includes a first insert or container (14) in the form of a cartridge, a second insert (18), and a non-positive detachable connection (62, 64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Sloan et al with a first insert or container, a second insert and a non-positive, detachable connection as taught by Pham as Pham teaches that it is well known to use first and second inserts which are detachably connected in a device for administering fluid to an infant as the first and second inserts may be replaced such that the device can be kept sterile and reused.



***Response to Arguments***

10. Applicant's arguments with respect to claims 1 and 45-67 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bhisma Mehta whose telephone number is 571-272-3383. The examiner can normally be reached on Monday through Friday, 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BM

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

